

## REMARKS

Claims 1-7 were pending. Claims 1-2 and 5-7 are canceled. Claim 3 is amended. No new matter is added. Applicants respectfully request reconsideration of the rejections.

The Office Action states that the restriction requirement has been made final. Applicants reserve the right set forth in 37 C.F.R. 1.114 and M.P.E.P. 818.03(c) to petition the Commissioner for review of the requirement, which petition may be deferred until after final action on or allowance of claims to the invention elected. Applicants respectfully submit that it is improper to divide each of the sequences set forth in the present application because the sequences are short fragments from a common coding sequence (SEQ ID NO:1). As set forth in the M.P.E.P. 803.04, "nucleotide sequences encoding the same protein are not considered to be independent and distinct inventions and will continue to be examined together."

The Office Action states that the Declaration is defective. Applicants respectfully draw the Examiner's attention to the Application Data Sheet, submitted at the time of filing. As set forth in 37 C.F.R. 1.76(5), *Application data sheet, Domestic priority information*. "This information includes the application number, the filing date, the status (including patent number if available), and relationship of each application for which a benefit is claimed under 35 U.S.C. 119(e), 120, 121, or 365(c). Providing this information in the application data sheet constitutes the specific reference required by 35 U.S.C. 119(e) or 120, and § 1.78(a)(2) or § 1.78(a)(4), and need not otherwise be made part of the specification." Withdrawal of the objection is requested.

Claim 1 has been rejected under 35 U.S.C. 112 as lacking antecedent basis for the term "the sequence". Presently pending Claim 3 has been amended to delete this term. Withdrawal of the rejection is requested.

The rejection of Claims 1-2 under 35 U.S.C. 102 is made moot by cancellation of the claims.

## CONCLUSION

Applicants submit that all of the claims are now in condition for allowance, which action is requested. If the Examiner finds that a Telephone Conference would expedite the prosecution of this application, she is invited to telephone the undersigned at the number provided.

The Commissioner is hereby authorized to charge any other fees under 37 C.F.R. §§ 1.16

and 1.17 which may be required by this paper, or to credit any overpayment, to Deposit Account No. 50-0815, order number KINE-001CIP4.

Respectfully submitted,

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By:



Pamela J. Sherwood, Ph.D.  
Registration No. 36,677

BOZICEVIC, FIELD & FRANCIS LLP  
200 Middlefield Road, Suite 200  
Menlo Park, CA 94025  
Telephone: (650) 327-3400  
Facsimile: (650) 327-3231